

04-426

LETTER OF AGREEMENT ON POLICE, JUSTICE, AND
COUNTERNARCOTICS PROGRAMS

BETWEEN APR 10 P 3:43

THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE TRANSITIONAL ISLAMIC STATE OF AFGHANISTAN

I. GENERAL

The Government of the United States of America (USG), represented by Ambassador Robert P. Finn, and the Transitional Islamic State of Afghanistan (TISA), represented by Dr. Zalmay Rassoul, National Security Advisor, jointly agree to establish and support a program designed to provide training, technical assistance, alternative development, equipment and other forms of support for police, justice, and counternarcotics projects in Afghanistan. The Parties further agree that they will provide assistance through direct support to TISA agencies, contracts with private firms, grants to non-governmental organizations, and funding for activities carried out by international organizations such as the United Nations Office on Drugs and Crime.

The actions to be taken and the resources to be provided by the TISA and the USG in support of these projects as set forth below are accepted by the signatories as firm commitments unless otherwise amended by joint Agreement. A total of approximately \$60 million (USD Sixty Million) in USG funds is available to support projects under this Agreement. Future funding for these and any other projects is contingent upon Congressional authorization and appropriation of funds, the availability of such funds, and approval by the Assistant Secretary of State for International Narcotics and Law Enforcement Affairs. In addition, expenditure of any USG funds on acquisition, construction, or rehabilitation/repairs of real property, or renting or leasing of real property in the furtherance of the objectives of this Agreement, may be contingent upon additional Congressional approval. Such expenditures will not proceed without such approval.

Modifications to this Agreement may be made as jointly agreed by the signatories and issued as amendments to the Agreement.

Dr. Zalmay Rassoul, National Security Advisor, representing the TISA, and the United States Ambassador to Afghanistan, Robert P. Finn, representing the USG, agree to support all provisions of this Agreement from the date of signing to its termination, except as this Agreement may be jointly amended.

II. PROJECT DESCRIPTIONS

A. Police Project - This \$24.6 million (USD Twenty Four Million, Six Hundred Thousand) project complements the German-led international effort to support the Afghanistan National Police. The USG program is designed to enhance police capability to conduct law enforcement functions, starting in Kabul with the estimated 7,000 existing

police personnel assigned to duties in Kabul. The USG and the TISA agree to take actions and commit resources as authorized by their respective legislative processes to support this effort.

The planned life of this project is five years, following which the Afghanistan National Police will be fully re-established and performing in Kabul and throughout Afghanistan as the sole government entity with the responsibility and authority for law enforcement. Provision of USG assistance beyond the current fiscal year is conditioned upon satisfactory progress toward project goals and the availability of funds authorized and appropriated on a year-to-year basis by the U.S. Congress and approved by the USG Department of State, Bureau for International Narcotics and Law Enforcement Affairs (INL). USG actions to be taken include the following:

- (1) Clear the project site designated by the TISA of debris and prepare the area for building construction for the police training facility.
- (2) Establish a police training facility with classroom capacity to train up to 1,000 Afghanistan National Police in 33-35 classrooms, provide living quarters for at least 140 Afghan police trainers, administrative offices, cafeteria, and bathrooms.
- (3) Fund support for a team of 10-12 police trainers from the U.S. and Europe to serve as expert advisors to prepare Afghan police trainers for delivery of curricula for an eight-week basic policing skills program for patrolmen and a two-week program emphasizing human rights, leadership and modern policing techniques for police officers and non-commissioned officers, starting with the estimated 7,000 police serving in Kabul.
- (4) Deliver basic non-lethal personal police equipment for patrolmen who successfully complete the eight-week basic skills program.
- (5) Provide fabric and materials to be used to make police uniforms for police trainees who successfully complete programs at the police training facility.
- (6) Provide a police identification card system with the capacity to connect to a personnel database, starting with the 7,000 police serving in Kabul.
- (7) Procure, install and maintain for a minimum of one year, a communications network to connect the Ministry of Interior in Kabul with the Chiefs of Police in the 32 provinces.
- (8) Provide expert advisory services, as required, to assist the German-led international effort to support the Afghanistan National Police and ensure oversight of USG-funded police and justice programs in Afghanistan.

- (9) Procure, install and provide, as appropriate, basic equipment, supplies, materials and construction renovations to support existing Kabul district and provincial police physical plant.
- (10) Contribute funds and/or expertise to enhance effective administration of the United Nations Development Program (UNDP) Law and Order Trust Fund for Afghanistan (LOTFA).

B. Justice Project – The \$2 million (USD Two Million) in USG assistance allocated to this project will complement the Italian-led international effort to re-establish and modernize the Afghanistan judicial sector. The planned life of this project is five years, following which the Afghanistan judicial system will be fully re-established and reformed and performing in Kabul and throughout Afghanistan as the sole judicial entity with the responsibility and authority for all judicial functions. Provision of USG assistance beyond the current fiscal year is conditioned upon satisfactory progress toward project goals and the availability of funds authorized and appropriated on a year-to-year basis by the U.S. Congress and approved by the USG Department of State, Bureau for International Narcotics and Law Enforcement Affairs. USG actions to be taken include the following:

- (1) Support the Italian-led international effort to assist in the re-establishment and modernization of the judicial system in Afghanistan, including support to the judicial commission, training, infrastructure development, and expert advisory services.

C. Counternarcotics Project – The USG will provide \$33.4 million (USD Thirty-Three Million, Four Hundred Thousand) for programs that will target drug trafficking networks and areas of major opium poppy cultivation in Afghanistan. The U. S. Embassy in Kabul will coordinate the development and approval of individual programs with appropriate agencies of the TISA.

This project will support activities in three areas, as follows:

- (1) The USG will fund alternative development efforts in poppy growing areas. These programs will create sustainable alternatives to poppy cultivation for farmers and alternative livelihoods for other vulnerable populations. Individual projects will focus on crop substitution, skills training for off-farm employment, and micro-credit schemes to promote the cultivation of legal crops and other activities.
- (2) Other funds will help the TISA establish a national drug control policy coordination office and deploy a national counternarcotics police force to enforce the ban on illegal drugs and pursue drug traffickers.
- (3) The USG will also support drug control and civil society programs that encourage a drug-free society and counteract the debilitating effects of drug production, use,

and abuse. These programs will reduce the demand for and consumption of illegal drugs in Afghanistan.

D. Project Administration Office - The USG will develop an office in the U. S. Embassy, Kabul, that will be responsible for administering and monitoring counternarcotics, crime, and justice programs in Afghanistan.

III. PROJECT GOALS AND ACHIEVEMENT VERIFICATION

The specific goals of these projects are: (1) to enhance the capacity of the Ministry of Interior and the Afghanistan National Police to conduct effective law enforcement; (2) to support Ministry of Justice efforts to re-establish and reform judicial processes; and (3) to work with all appropriate TISA agencies to disrupt drug trafficking networks, promote rural development, create legal alternatives to poppy cultivation, and counteract the debilitating effects of drug production and consumption in Afghanistan.

Progress toward achievement of project goals will be measured in terms of: (1) successful completion of training programs delivered to qualified members of the national police force; (2) implementation of measures for judicial reform; (3) arrest and successful prosecution of drug traffickers; (4) seizures of illegal drugs; (5) the adoption of legal alternatives to poppy growing by Afghan farmers; (6) annual estimates of total hectareage under poppy cultivation; and (7) progress in dealing with the negative effects of drug production and use in Afghanistan.

Methods of verification will include: (1) observation by personnel of the two cooperating governments, (2) independent assessments conducted by internationally recognized organizations, and (3) annual analyses of the extent and nature of illegal drug cultivation carried out by the USG and the United Nations Office on Drugs and Crime.

STANDARD PROVISIONS

1. Financing

A. Disbursement of USG funds for procurement of goods and services will be made as charges against subobligating documents prepared and issued by the American Embassy or by INL.

B. Funds obligated by the United States that have not been subobligated within twelve months following the close of the USG fiscal year in which the Agreement is signed may be de-obligated by the USG. An extension of the subobligation period may be granted upon request to the U.S. Department of State, INL.

C. The TISA will ensure effective day-to-day operation of the Ministry of Interior, the Ministry of Justice, the Ministry of Rural Rehabilitation and Development, and the Counter Narcotics Directorate of the National Security Council by providing adequate funding for normal administrative and related expenses, such as payment of rents and

utilities, telephone costs, salaries and benefits (including medical and other insurance protection), and by recruiting and retaining competent personnel.

The TISA shall make such reasonable efforts as are necessary to ensure that funds or other support provided under this Agreement are not employed in any way in support of drug trafficking.

2. Title

Title to all property procured through financing by the USG shall be to the TISA unless otherwise specified.

3. Property and Personnel

A. Property

(1) Property furnished by the TISA Ministry of Interior or supported through financing by the USG shall be devoted to the project and shall be used to further the project's objectives. The TISA agrees to return to the USG, or reimburse the USG for, any property that it obtains through USG financing which is not used in accordance with the provision. Funds derived from the sale of any property furnished by the USG to the projects shall be used in furtherance of the objectives of the projects. The TISA agrees to ensure unfettered access to the property designated by the Ministry of the Interior for the police training facility during the entire period of the project and to devote the site to law enforcement training for Afghanistan National Police personnel.

(2) All equipment, supplies, and material will be accounted for to the American Embassy by the end-user in no less rigorous manner than would be used if the equipment, supplies and material were acquired by the TISA with TISA funds.

B. Personnel

(1) Before scholarships, fellowships or participant training for personnel proposed by the TISA can be funded under this Agreement, personnel proposed for the training must execute a certification, as set forth in the Annex to this Agreement, that they have not been convicted of a narcotics offense or been involved in narcotics trafficking within the last ten years.

(2) The TISA agrees to retain personnel who have received training financed under this Agreement for a minimum of two years after completing such training. This requirement may be waived by written Agreement of appropriate representatives of the TISA and the USG.

4. Monitoring and Evaluation

A. Each Party shall have the right: (1) to examine any property procured through or financed by that Party under these projects to determine that such property is being used in accordance with the terms of the projects; and (2) to inspect and audit any records and accounts with respect to funds, property and contract services furnished by that Party under this Agreement to determine that such funds, services or property are being utilized in accordance with the terms of this Agreement.

B. The Parties agree to monitor the progress of these projects jointly and to monitor the use of project equipment and material at least annually during the life of the project. Each Party will assign qualified personnel to participate in the monitoring and evaluation process.

C. Each Party will furnish the other with information necessary to evaluate the effectiveness of project operations under the terms of this Agreement. At the termination of each project a completion report shall be issued as an integral part of this process. The completion report will include a summary of USG and TISA project contributions, a record of activities performed, objectives achieved, and related basic data.

5. Applicable Laws

A. Both governments shall expend funds and support project operations in accordance with their respective government's applicable laws and regulations.

B. All goods and services procured with USG funds will be procured in and shipped from the United States unless otherwise provided for in this Agreement or as otherwise authorized by the USG.

6. Currency Exchange

The TISA shall make such arrangements as may be necessary to ensure that funds introduced into Afghanistan by the USG for the purpose of carrying out obligations of the USG under this Agreement shall be convertible into currency of the host nation at the highest rate which at the time of conversion is not unlawful.

7. Taxes

A. Material and Equipment

Any funds, material and equipment introduced into Afghanistan by the USG pursuant to this Agreement shall be exempt from taxes, service charges and investment or deposit requirements and currency control in Afghanistan, and the import, export, acquisition, use or disposition of any such property or funds in connection with this Agreement shall be exempt from any tariffs, custom duties, import and export taxes, taxes on purchases or disposition and any other taxes or similar charges in Afghanistan.

B. Contract Services

Any foreign contractor, including any consulting firm, and any foreign personnel of such contractor financed under the project and any property or transaction related directly to such contracts, and any commodity procurement transaction financed under this project are exempt from identifiable taxes, tariffs, duties or other levies imposed under law in effect in Afghanistan.

8. Status of USG Personnel in Afghanistan

A. The TISA agrees to receive persons designated by the USG to discharge responsibilities of the USG under this Agreement. Upon appropriate notification from the USG, the TISA will grant such persons the privileges and immunities accorded to the Administrative and Technical staff of the USG and assigned to the US embassy except as otherwise provided in this Agreement.

B. All personnel in the USG assigned to duties in Afghanistan in connection with cooperative/technical assistance programs and projects and accompanying members of their families shall be exempt from all Afghanistan income taxes and social security taxes with respect to income earned while in Afghanistan, and from property taxes on personal property intended for their own personal use. Such personnel and accompanying members of their families shall receive the same treatment with respect to the payment of customs and import duties on personal effects, equipment and supplies imported into Afghanistan for their own use, as is accorded by the TISA to diplomatic agents of the US embassy in Afghanistan.

9. Human Rights

The Parties recognize and agree that the protection of human rights is an important element of this bilateral Agreement. To this end, the Parties understand and agree that:

A. USG assistance to the TISA is conditioned on the TISA actively protecting human rights in Afghanistan, and

B. In accordance with United States law and policy, no USG assistance or funds will be provided under this Agreement to or for use by a unit of the security forces of the TISA if the US Secretary of State has credible evidence that such a unit has committed gross violations of human rights, unless the US Secretary of State determines that the TISA is taking effective measures to bring the responsible members of the security forces unit to justice. The Parties understand and agree that "effective measures" means that the TISA is carrying out a credible investigation and that the individuals involved face appropriate disciplinary action or impartial prosecution in accordance with Afghanistan law.

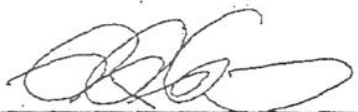
10. Termination

A. This Agreement shall enter into force when signed by authorized representatives of both Governments. Either Party may terminate this Agreement by giving the other Party a 90-day prior written notice of intent. Termination of this Agreement shall cancel any obligations of the two Parties to make contributions pursuant to this Agreement, except for payments to commitments entered into with third Parties prior to the notice of cancellation of the Agreement.

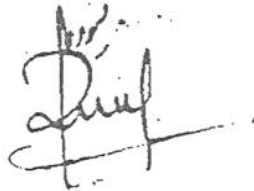
B. The USG reserves the right to terminate any and all assistance provided under this Agreement immediately upon notice or take appropriate other measures if an agency of the TISA, to or through which assistance is being provided under this Agreement or a key individual of such agency or any recipient of scholarships, fellowships or training financed under this Agreement is found to have been convicted of a narcotics offense or to be or have been engaged in drug trafficking as defined in 22 CFR Part 140.

C. It is expressly understood that the obligations under paragraph 3 of this Agreement relating to the use of property shall remain in force after termination of this Agreement.

Done in duplicate at Kabul, Afghanistan, this 19th day of February of 2003, in English and Dari languages, both texts being equally authentic.



For the Government of the
United States of America,
Ambassador Robert P. Finn



For the Transitional Islamic State of
Afghanistan, Dr. Zalmay Rassoul,
National Security Advisor